All the elements in previous cases in which the bill was allowed are present; there is the saving to both the court and the plaintiff; and it would seem that the demurrer should have been overruled.[9]

EQUITABLE DECREE AS A CAUSE OF ACTION IN ANOTHER STATE. — Under the Constitution of the United States a valid judgment must be given full faith and credit in the courts of another state.[1] This does not, however, mean that it must be given an effect which could not be given to domestic judgments, nor that the machinery of one state must execute the orders of the courts of other states in matters of procedure. Decrees of equity offer the best examples of these principles. A decree which orders the payment of a definite sum of money will sustain an action of debt in another state for amounts already due.[2] But as to future payments, a present decree is not conclusive, for there is no debt and consequently no existing right of action.[3] As to interests in land, a decree of a court of the situs is binding everywhere, and if, for example, the defendant in a suit for specific performance leaves the jurisdiction without making a conveyance, suit may be maintained upon the contract wherever he can be found; the obligation can be proved by the decree of the court of the situs, and he will be forced to convey.[4]

When the land lies in another state, the effect of a decree is more limited because the power of the court is limited. A decision *in rem*, such as one declaring void a deed of land in another state, is of no effect whatever, since the court necessarily lacks jurisdiction over the land.[5] But if the decree is strictly *in personam* upon an antecedent obligation which is in issue, it is well settled that a decree is conclusive as to land lying in another state. For example, a decree of specific performance of a contract is binding on the court of the situs.[6] A decree for the conveyance of land on the settlement of a partnership is similarly conclusive.[7] The reason is that if suit on the obligation be brought at the situs, the decree is conclusive evidence of the issues involved. But it is to be noticed that the first court has attempted to create no new interest in the land, but rather that the decree is *in personam* to effectuate rights already existing by the law of the situs. Indeed, the court is bound to determine the suit by the law of the situs whether it accords with its own law or not.[8]

When, however, no antecedent obligation exists by the law of the situs, a decree of another state is without force, for it cannot create such an obligation as to land outside its jurisdiction. Nor does any procedure exist for suing on such a decree. It is evidence, and evidence is useless without a cause of action. Another reason is that any such order is necessarily merely auxiliary to the decree and partakes only of the nature of execution.

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[9] The bill may be demurrable because the plaintiff also asked for damages, which would be unliquidated; but this point was untouched by the court. See Foreman *v.* Boyle, *supra*.

[1] Art. IV, § 1.
[2] Bullock *v.* Bullock, 57 N. J. L. 508.
[3] Lynde *v.* Lynde, 181 U. S. 183.
[4] Roblin *v.* Long, 60 How. Pr. (N. Y.) 200.
[5] Carpenter *v.* Strange, 141 U. S. 87.
[6] Burnley *v.* Stevenson, 24 Oh. St. 474.
[7] Dunlap *v.* Byers, 110 Mich. 109.
[8] Knox *v.* Jones, 47 N. Y. 389. See 20 HARV. L. REV. 382.

A party cannot seek to enforce the procedure of a court beyond its jurisdiction. Such a situation is suggested by a recent Nebraska case where, in divorce proceedings, the court ordered a conveyance of land situated in another state. *Fall* v. *Fall*, 113 N. W. 175. The prospective grantee brought a bill in the court of the situs to quiet title. The bill, of course, failed, because no title, legal or equitable, could be created by the other court, and no other right in the land was alleged. Nor could the plaintiff have succeeded in any other way. The order was simply a part of the procedure of the court, just as it might award future alimony or security therefor. If it does not execute such orders, no right of action exists upon which to have execution in another state.[9]

THE POWER OF A TRUSTEE TO LEASE TRUST PROPERTY. — Where a trustee has legal title to land and is charged with the active duty of raising an income therefrom, he is confronted with the problem as to whether or not he has power to lease, and if he has, to what extent. There can be no implied power to lease where the trust is a passive one,[1] or where the trust instrument indicates a contrary intention.[2] And where the instrument expressly grants power to lease for a specified term, no authority can be implied to grant a longer lease, or to deviate in any way from the limitations of the grant.[3] Clearly, where the trust must terminate at a given time, the trustee cannot lease beyond that time, and no lease beyond his power will bind the remainderman. But where the trust deed is silent as to the right to lease and the trust is for an indefinite period, the trustee has an implied power to lease for the shortest period essential to the economical use of the land, provided that such lease is not likely to extend beyond the duration of the trust.[4] The circumstances which determine whether or not the trustee's action has been reasonable are reviewed in a recent Iowa case. *In re Hubbell Trust*, 113 N. W. 512. The nature of the property to be leased is an important element. Thus, leases of agricultural land may often be advantageously made for short periods, while mining leases and leases of city lots, where the lessee must be allowed to build or make improvements in order that the land may be productive, may require comparatively long terms.[5] The business usage of each community will affect the proper extent of the lease. The interests of the remainderman must also be considered by the trustee. When the remainderman is a descendant of the *cestui que trust*, and necessity requires it, the court might well approve a lease longer than the probable term of the trust. This, however, cannot be supported on the theory of implied power in the trustee, but only on the theory that equity, taking the place of the creator of the trust, will do what in all probability he would have done had he anticipated the emergency.[6] Whether or not courts will adopt this *cy pres* doctrine, the trustee himself has no power to make such a lease.

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[9] Bullock *v.* Bullock, 52 N. J. Eq. 561.

[1] Hefferman *v.* Taylor, 15 Ont. 670.
[2] Evans *v.* Jackson, 6 L. J. Ch. 8.
[3] Bowers *v.* East London, etc., Co., Jac. 324.
[4] Fitzpatrick *v.* Waring, L. R. Ir. 11 Ch. D. 35.
[5] Newcomb *v.* Kettellas, 19 Barb. (N. Y.) 608.
[6] Marsh *v.* Reed, 184 Ill. 263.